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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,378	12/03/2003	Wei Fan	YOR920030321US1	3137
48150 7590 05/03/2007 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER COUGHLAN, PETER D	
			ART UNIT 2129	PAPER NUMBER
			MAIL DATE 05/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/725,378

Applicant(s)

FAN ET AL.

Examiner

Peter Coughlan

Art Unit

2129

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


DAVID VINCENT
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The 35 U.S.C. §101 rejection has been withdrawn based on the practical application pertains only to campaign letter distribution 0007 or credit card fraud detection 0009.

The 35 U.S.C. 102(a) rejection stands. The affidavit submitted under 37 C.F.R 1.132 is deficient. Per the MPEP

A rejection based on 35 U.S.C. 102(a) can be overcome by:

- (A) Persuasively arguing that the claims are patentably distinguishable from the prior art;
- (B) Amending the claims to patentably distinguish over the prior art;
- (C) Filing an affidavit or declaration under 37 CFR 1.131 showing prior invention, if the reference is not a U.S. patent or a U.S. patent application publication claiming the same patentable invention as defined in 37 CFR 41.203(a). See MPEP § 715 for information on the requirements of 37 CFR 1.131 affidavits. When the claims of the reference U.S. patent or U.S. patent application publication and the application are directed to the same invention or are obvious variants, an affidavit or declaration under 37 CFR 1.131 is not appropriate to overcome the rejection.
- (D) Filing an affidavit or declaration under 37 CFR 1.132 showing that the reference invention is not by "another." See MPEP § 715.01(a), § 715.01(c), and § 716.10;
- (E) Perfecting a claim to priority under 35 U.S.C. 119(a)-(d) as explained in reference to 35 U.S.C. 102(e) above;
- (F) Perfecting >benefit< under 35 U.S.C. 119(e) or 120 as explained in reference to 35 U.S.C. 102(e) above.

The applicant failed to prove section (D).

Additionally the oath and declaration discloses three inventors but the 37 U.S.C. 1.132 only has one signature. The affidavit is silent regarding the reference invention is not by 'another.'

Under section 1.105 the Examiner requests 'requirement for information.' The affidavit states that Fan was co-inventor of the invention. The Examiner requests information which describes what portions of the invention were invented by which inventor.

Inventor states that both Lo and Stolfo were added to the IEEE reference as 'only as a courtesy.' The Examiner requests all information which would support the inventors statement. Areas of support are listed below and the inventor will supply all information that will support that Fan, Wang and Yu that they are the only inventors.

§ 1.105 Requirements for information.

(a)

(1) In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under § 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

(i) Commercial databases : The existence of any particularly relevant commercial database known to any of the inventors that could be searched for a particular aspect of the invention.

(ii) Search : Whether a search of the prior art was made, and if so, what was searched.

(iii) Related information : A copy of any non-patent literature, published application, or patent (U.S. or foreign), by any of the inventors, that relates to the claimed invention.

Concerning items (i), (ii) and (iii) the Examiner would like copies of all prior search information regarding the invention and notations of related art which was found,

(vi) Improvements : Where the claimed invention is an improvement, identification of what is being improved.

Regarding section (vi), If any art which was found in sections (i), (ii), and (iii), list the improvements which the invention which the prior art does not disclose.

(viii) Technical information known to applicant . Technical information known to applicant concerning the related art, the disclosure, the claimed subject matter, other factual information pertinent to patentability, or

concerning the accuracy of the examiner's stated interpretation of such items.

Regarding section (viii), the Examiner requests copies of the laboratory notes (logs) which disclose a time line from the invention's conception, to a working model with due diligence. Copies of internal notes and memos concerning the invention's progress. Copies of mockups.

(2) Where an assignee has asserted its right to prosecute pursuant to § 3.71(a) of this chapter, matters such as paragraphs (a)(1)(i), (iii), and (vii) of this section may also be applied to such assignee.

(3) Requirements for factual information known to applicant may be presented in any appropriate manner, for example:

(i) A requirement for factual information;

(ii) Interrogatories in the form of specific questions seeking applicant's factual knowledge; or

(iii) Stipulations as to facts with which the applicant may agree or disagree.

(4) Any reply to a requirement for information pursuant to this section that states either that the information required to be submitted is unknown to or is not readily available to the party or parties from which it was requested may be accepted as a complete reply.

(b) The requirement for information of paragraph (a)(1) of this section may be included in an Office action, or sent separately.

(c) A reply, or a failure to reply, to a requirement for information under this section will be governed by §§ 1.135 and 1.136.